

REMARKS

The Examiner has objected to the drawings, and has requested formal drawings upon the allowance of the present application. Such request is noted.

The Examiner has rejected Claims 32-47 under the judicially created doctrine of double patenting over Claim 1 of U.S. Patent No. 6,418,467 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. In response, applicant has submitted herewith a terminal disclaimer.

The Examiner has further rejected Claims 32-47 under 35 U.S.C. 102(b) as being anticipated by Herbert, U.S. Patent No.: 5,333,183. Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove.

Specifically, the Examiner argues that Herbert discloses applicant's claimed "(e) continuously monitoring a state of the gatherers; (f) detecting a fault; and (g) utilizing the state of the gatherers and the stored data records to recover from the fault upon the detection thereof." Applicant emphasizes, however, that such reference fails to disclose, teach or suggest any sort of gatherer state monitoring let alone "utilizing the state of the gatherers and the stored data records to recover from the fault upon the detection thereof" (emphasis added). Just by way of example, the Examiner relies on the following excerpt from Herbert to make a prior art showing of the foregoing feature.

TABLE 2 FUNCTIONAL DESCRIPTION OF THE SYSTEM					
Block	Item	Block	Item	Block	Item
System	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
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	System	System	System	System	System
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	System	System	System	System	System
	System	System	System	System	System

TABLE 3 FUNCTIONAL DESCRIPTION OF THE SYSTEM					
Block	Item	Block	Item	Block	Item
System	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
	System	System	System	System	System
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	System	System	System	System	System
	System	System	System	System	System

Such excerpt, however, merely discloses database backup and recovery utilizing stored transaction data, etc. This clearly falls short of recovering from a fault "utilizing the state of the

[filtering and aggregating] gatherers" in combination with stored data records, as claimed by applicant. Only applicant teaches and claim such a specific filtering and aggregating gatherer state-based recovery in combination with the remaining features for allowing a more thorough recovery from a fault in the specific aggregation/filtering framework, as currently claimed.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. This criteria has simply not been met by the Herbert reference.

To expedite the prosecution of the present application, applicant has further amended each of the independent claims to require "filtering and aggregating the network communications usage information utilizing a plurality of gatherers, wherein the filtering and aggregating are based on a user-defined configuration," (emphasis added).

Still yet, the Examiner continues by stating that Claim 47 is substantially the same as Claims 32-36, and is thus rejected for the reasons set forth for those in the rejection of Claims 32-36. This is simply incorrect. Applicant emphasizes that there are numerous additional features in Claim 47 that distinguish the Herbert reference, and have not been fully considered by the Examiner. For example, see the following limitations:

"defining a user-defined enhancement procedure utilizing the central event manager," and
"enhancing the aggregation with the gatherers in accordance with the defined enhancement procedure;"

"normalizing the network communications usage information with the gatherers by excluding fields not required by a central event manager coupled to the gatherers;" and

"time stamping the data records; storing the time stamped data records in tables in a central database coupled to the central event manager at a user-specified interval; deleting the stored data records upon the cessation of a predetermined amount of time after the storage utilizing the timestamp."

A specific prior art showing of the foregoing limitations or an indication of allowable subject matter is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. For payment of the fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. XACTP014C). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,

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